



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/629,170 | 07/29/2003 | Bruce Wallman | CHA920030012US1 | 7168 |
| 45095 | 7590 | 05/01/2009 | | |
| HOFFMAN WARNICK LLC 75 STATE ST 14 FL ALBANY, NY 12207 | | | EXAMINER TESLOVICH, TAMARA | |
| | | | ART UNIT 2437 | PAPER NUMBER |
| | | | NOTIFICATION DATE 05/01/2009 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/629,170 | Applicant(s) WALLMAN, BRUCE | |
| | Examiner Tamara Teslovich | Art Unit 2437 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,15-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,15-17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicant's Remarks and Amendments filed February 13, 2009.

Claims 4, 13-14, and 18 remain cancelled.

Claims 1, 10, and 17 are amended.

Claims 1-3, 5-12, 15-17, and 19-22 are pending and herein considered.

Response to Arguments

Applicant's arguments filed February 13, 2009 have been fully considered but they are not persuasive.

Applicant's first set of arguments are directed towards Gadish's alleged failure to recite "a system for detecting improper requests." The Examiner respectfully disagrees, calling attention to column 2 wherein Gadish discloses "replacing an error message with a non-error message when a query is non-resolvable." While Applicant argues that this teaching fails to include the detection of improper requests, the Examiner would like to point out that in order to replace an error-message it is necessary for the system to detect that error to begin with. Further support for the Examiner's position may be found in lines 24-29 of column 2 wherein Gadish discloses the option of either replacing the error message once it has already been generated, or implicitly generating the error message in response to the non-resolvable query. In order for Gadish to respond directly with his "non-error" message it is necessary for him to detect the unresolvable

Art Unit: 2437

query (improper request). Furthermore, while Applicant has in his response to referred to lines 36-39 of column 2, conspicuously absent from his response is any mention of lines 39-45 of the same column and cited by the Examiner, wherein Gadish discloses a server device "for receiving the query and for determining whether the query is resolvable by the server device, such that if the query is nonresolvable, the server device generates the error message" and "a non-error message generator for intercepting the error message and for altering at least a portion of the error message to form the non-error message. " It is clear from the above mentioned passages in view of the reference in its entirety that Gadish does in fact to provide for a system for detecting improper requests.

Applicant's next set of remarks are directed towards Gadish's alleged failure to teach or suggest wherein a request is deemed improper if a message body associated with the request has zero length. The Examiner respectfully disagrees, drawing attention column 2 lines 30-35, column 4 lines 56-61 and column 5 line 62 through column 6 line 4 wherein Gadish discloses the versatility of his system including its use with UDP/IP, HTTP FTP, TCP/IP, Telnet and Ping. Gadish goes on in column 6 to disclose the variety of headers and fields which are to be examined in order to determine whether or not an individual packet is improper according to a particular system. It is based upon the abovementioned sections in view of the reference in its entirety that the Examiner maintains her rejection of claim 1 in view of Gadish insofar as Gadish provides for detecting improper requests based upon an examination of header and body fields of a particular packet.

Applicant's remarks regarding independent claims 10 and 17 are based upon those given above with respect to claim 1, and are unpersuasive for substantially the same reasons as given above with regards to claim 1.

It is in view of the above-made arguments and the reference in its entirety that the Examiner maintains her rejection of claims 1-3, 5-12, 15-17, and 19-22 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,202,087 B1 to Ofer Gadish.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-12, 15-17, and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,202,087 B1 to Ofer Gadish.

As per **claim 1**, Gadish teaches a system including a computer hardware device for addressing denial of service attacks directed at a web resource, comprising a system for detecting improper requests; and a system for responding to improper requests that issues an HTTP "OK" response code when improper request is detected, wherein a request is deemed improper if a message body associated with the request has a zero length (col.2 lines 36-48, 61-65).

As per **claim 2**, Gadish teaches wherein the system for responding stops issuing HTTP "OK" response codes and issues no response after a predetermined number of improper requests are detected (col.5 line 48 thru col.6 line 7).

As per **claim 3**, Gadish teaches wherein a request is deemed improper if the request is received from an unexpected host (col.2 lines 29-35; col.4 lines 56-61).

As per **claim 5**, Gadish teaches wherein a request is deemed improper if an HTTP "post" or an HTTP "get" command is expected and neither an HTTP "post" nor an HTTP "get" command is received (col.2 lines 29-35; col.4 lines 56-61).

As per **claim 6**, Gadish teaches wherein a request is deemed improper if the request includes a HTTP "post" or "get" command with unknown arguments (col.2 lines 29-35; col.4 lines 56-61).

As per **claim 7**, Gadish teaches wherein the HTTP "OK" response code comprises an HTTP 204 "OK" message code (col.5 line 23 thru col.6 line 19).

As per **claim 8**, Gadish teaches wherein the system for responding to improper requests includes a response protocol that utilizes a standard error handling procedure for a first improper request from a requesting resource, issues an HTTP OK response

Art Unit: 2437

code for N subsequent improper requests from the requesting resource, and then stops responding to the requesting resource altogether (col.5 line 23 thru col.6 line 19).

As per **claim 9**, Gadish teaches wherein the web resource comprises a server (col.2 lines 7-35).

As per **claim 10**, Gadish teaches a method for addressing denial of service attacks directed at a web resource, comprising at least one computing device for processing the steps of:

receiving messages at the web resource and analyzing each message and determining if the message is improper, wherein a message is deemed improper if the message is neither an HTTP "post" nor an HTTP "get" command when one of these commands is expected, or the message includes a HTTP "post" or "get" command with unknown arguments (col.2 lines 29-48; col.4 lines 56-61));

storing the source address of a message if the message is improper and responding to a first improper message from an identified source address with an HTTP error response (col.5 line 23 thru col.6 line 19);

responding to a set of subsequent improper messages from the identified source address with HTTP "OK" response codes (col.5 line 23 thru col.6 line 19);

and stopping responses to the identified source address for all received improper messages after the set of subsequent improper messages have been responded to (col.5 line 23 thru col.6 line 19).

As per **claim 11**, Gadish teaches wherein a message is deemed improper if the message is received from an unexpected host (col.2 lines 29-35; col.4 lines 56-61).

As per **claim 12**, Gadish teaches wherein a message is deemed improper if a message body associated with the request has a zero length (col.2 lines 36-48, 61-65).

As per **claim 15**, Gadish teaches wherein the HTTP "OK" response code comprises an HTTP 204 "OK" message code (col.5 line 23 thru col.6 line 19).

As per **claim 16**, Gadish teaches wherein the HTTP "OK" response comprises an HTTP 200 "OK" message code (col.5 line 23 thru col.6 line 19).

As per **claim 17**, Gadish teaches a computer readable medium storing a program product for addressing denial of service attacks directed at a web resource, comprising computer readable program code for performing the steps of:

receiving messages at the web resource and means for analyzing each message and determining if the message is improper (col.2 lines 29-48; col.4 lines 56-61);

storing the source address of a message if the message is improper and means for responding to a first improper message from an identified source address with an HTTP error response (col.5 line 23 thru col.6 line 19);

responding to a first predetermined number of subsequent improper messages from the identified sources address with HTTP "OK" response codes (col.5 line 23 thru col.6 line 19); and

stopping responses to the identified course address after a second predetermined number of subsequent improper messages have been received (col.5 line 23 thru col.6 line 19).

As per **claim 19**, Gadish teaches wherein a message is deemed improper if the message is received from an unexpected host; if the message has a zero length; if the message is neither an expected HTTP "post" nor an expected HTTP "get" command (col.2 lines 29-35; col.4 lines 56-61); or if the message includes a HTTP "post" or "get" command with unknown arguments (col.2 lines 29-35; col.4 lines 56-61).

As per **claim 20**, Gadish teaches wherein the HTTP "OK" response codes comprise HTTP 204 "OK" response codes (col.5 line 23 thru col.6 line 19).

As per **claim 21**, Gadish teaches wherein messages that are deemed proper are passed to the web resource for further processing (col.2 lines 7-35).

As per **claim 22**, Gadish teaches wherein the web resource is a web server (col.2 lines 7-35).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2437

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tamara Teslovich/
Examiner, Art Unit 2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437